

**PLANNING AND ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
July 6, 2004**

PLACE: Room 206  
Town Hall

TIME: 8:00 P.M.

PLANNING AND ZONING COMMISSION MEMBERS ATTENDING:  
Damanti, Spain, Forman, Conze, Kenny

STAFF ATTENDING: Ginsberg, Keating

---

Mr. Damanti read the first PUBLIC HEARING item:

**Continuation of Public Hearing regarding Mandatory Referral, Land Filling & Regrading Application #53-B, Darien Board of Education, Darien High School, 80 High School Lane.** Proposing to install a synthetic turf multi-use athletic field and running track and perform related site development activities. The subject property is located on the north side of High School Lane, approximately 750 feet west of its intersection with Middlesex Road, and is shown on Tax Assessor's Map #9 as Lots #80 & #81, R-2 Zone.

Mr. Damanti noted that this is a continuation of the public hearing from a few weeks ago. Mr. Paul Engemann, Director of Construction & Facilities for the Board of Education, was present and explained that he had recently written a June 29, 2004 memo regarding potential noise concerns and submitted that for the record. He noted that they have recently received EPC approval with several minor conditions. Mr. Conze said that he understands that the track will be 8 lanes converging down to 6 lanes. He also had concerns about the placement of the javelin throw. He explained the need to have the Director of Athletics thoroughly review this application.

Mr. John Callahan, the Director of Athletics, said that he is aware of the issue and noted that having a design of 8 track lanes converging down to 6 is not uncommon. Mr. Engemann confirmed that this project is just track and jumping. The javelin throw is held in another area, as part of the original plan approved by the Planning & Zoning Commission. There being no other comments or questions from the general public or Commission members, the public hearing on this matter was closed at 8:10 p.m.

**GENERAL MEETING**

Mr. Damanti then read aloud the first general meeting item:

**Request to modify Condition A regarding Special Permit Application #236, William & Carol Layfield d/b/a Melting Pot, Darien; 14 Grove Street.** Proposing to modify Condition A of Special Permit Application #236 to allow use of the basement (lower level) of the building at 14 Grove Street for employee restroom; employee lockers; administrative space; rack storage; and food preparation, all related to The Melting Pot, Darien restaurant.

Mr. Damanti confirmed that the request is to use a portion of the basement (lower level) as outlined in the letter from William Hennessey dated July 6, 2004 with attached revised floor plans.

PLANNING AND ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
JULY 6, 2004  
PAGE 2

These revised floor plans show no food preparation in the basement. Mr. Spain then summarized the letters that had been submitted to the Commission. This included a June 15<sup>th</sup> letter that requested basement use for office, employee lockers, and a rest room. This was followed by a June 30<sup>th</sup> letter which asks for office, employee lockers, a rest room and food preparation. Mr. Spain then mentioned that the current, July 6<sup>th</sup> letter, does not include any food preparation but does include an office, employee lockers, rest rooms and storage. Attorney Hennessey explained that the activity in the basement is truly accessory to the principal use, which is a food preparation/restaurant on the first floor. The basement will have no public access. He assured the Commission that the applicant will solve the Health Department's concerns regarding the first floor kitchen layout and size. He noted that all food preparation will be on the first floor. Mr. Kenny noted the possibility of setting a precedent with this application. Mr. Damanti noted that the office space in the basement appears to be approximately 200 sq. ft. and is for storage of records regarding the restaurant. Mr. Hennessey emphasized that the applicant will stipulate to a condition that no public access be allowed into the basement and that no public be invited to the basement. It was noted that the plans show a basement door into the other space of the basement, and this might be a required second means of egress out of the basement. Mr. Ginsberg noted that the Fire Marshal has reviewed and approved these plans. On a motion by Mr. Spain, seconded by Mr. Conze, the Planning & Zoning Commission approved the request to use a portion of the basement for The Melting Pot as specifically outlined in William Hennessey's July 6, 2004 letter.

Mr. Damanti read the next agenda item:

**Proposed tenant, 6 Thorndal Circle, DOR-1 Zone.**

Determination whether proposed tenant complies with Section 703 of the Darien Zoning Regulations for the DOR-1 Zone.

Mr. Ginsberg noted that a request had been made by Jerry Neilsen, the owner of the Thorndal Circle office park. He is requesting a determination whether the proposed Osborne & Little, Inc. operation complies with Section 703 of the Darien Zoning Regulations, and is appropriate for the DOR-1 Zone. The one page letter received in the Planning & Zoning office in June 2004 outlined the nature of the business noting that the Stamford office which now serves as the North American headquarters would be relocated to Darien. Although there would be some designers visiting the site, there would not generally be local traffic, and the public would very rarely come into the building. It was noted that the space requested is approximately 12,000 square feet, and there would be approximately 39 employees resulting in a one employee per every 300 square feet ratio. There would be some decorators visiting the office space, but those visits would not be common. On a motion by Mr. Kenny, seconded by Mr. Spain, the Commission unanimously approved this proposal.

Mr. Damanti read the following agenda item:

**Informal request/determination regarding proposed Commerce Bank use at 25-35 Boston Post Road, within the SB-E Zone.**

Determination of whether retail banks with drive through lanes meet the requirements of Section 672a of the Darien Zoning Regulations regarding commercial sales and services generally requiring external storage or activity.

PLANNING AND ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
JULY 6, 2004  
PAGE 3

Attorney Wilder Gleason was present on behalf of Commerce Bank to respond to the question of whether retail banks with drive-thru lanes meet the requirements of Section 672a of the Darien Zoning Regulations. Mr. Gleason explained that there was definitely outdoor activity associated with this bank due to the changing nature of the services offered to customers and demanded by customers. He noted that Patriot Bank is the only bank within the past 20 years to open in Darien without a drive-thru lane. Other prospective banks will only open if they find a site with a drive through lane. He mentioned that 9 times out of ten when he is at a bank it is at a drive-up window. Mr. Conze said that this request seems very simple as the external activity is quite obvious. Mr. Damanti mentioned that although banks do not require an external use, that is the way most banks are operated today. Mr. Gleason agreed that it is now a normal part of the banking use.

Mr. Ginsberg said that earlier this evening he had read the minutes when the Planning & Zoning Commission adopted the SB-1 (later to be called the SB-E) zone regulations in which there is no mention at all of any retail uses or for banks. Mr. Gleason asked the Commission members of what they thought of having an exit on West Norwalk Road and having the three drive-thru lanes egressing onto a side street. He asked whether a right turn lane onto the Post Road would be needed and asked whether the Commission would be amenable to having only 30 parking spaces instead of 41 as required by the Darien Zoning Regulations. Commission members then looked at sketches prepared for Mr. Gleason and his clients and noted possibilities for modifying the site plan which would include having the building to the far right of the property and having a pass-thru lane. Mr. Kenny asked whether modifying the shape of the bank building would be possible in order to improve traffic on-site. Commission members also noted the need to have parking at a ratio of one space per 100 sq. ft. of gross floor area of building. Mr. Gleason thanked the Commission for their comments and agreed to return to the Commission with revised plans.

Mr. Damanti then read the following agenda item:

**Request/determination regarding Coastal Site Plan Review for Eagle Nest, LLC, 33 Searles Road.**

Determination on whether installation of a fence abutting the existing lagoon requires Coastal Site Plan Review under Section 810 of the Darien Zoning Regulations.

Attorney Wilder Gleason then presented photographs of the existing fence that had been installed by the property owner. He agreed that they will need to have an engineer's certification that the fence meets all of the flood regulations. He noted that having all of the neighbors within 100 feet "sign off" on the approval, may eliminate the requirement for a public hearing on this matter. After some discussion, Commission members agreed that unless Mr. Gleason gets waivers from all of the neighboring property owners, it would be appropriate to have this item on the Commission's public hearing agenda for July 27, 2004.

Mr. Damanti then read the next agenda item:

**Amendment of Special Permit Application #39-K, St. Luke's Episcopal Church, 1864 Boston Post Road.**

Proposal to install air conditioning chiller unit with landscaping and screening.

PLANNING AND ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
JULY 6, 2004  
PAGE 4

Mr. Ginsberg explained that the proposed air conditioning units will be located in order to comply with front, side and rear yard setbacks, as the Zoning Board of Appeals recently denied a variance request to locate the air conditioning units within the required front setback. Mr. Ginsberg noted that this is a minor amendment to the existing Special Permit of the church. The chiller unit would be 7 ft. high with a 7½ ft. tall fence around it and some landscaping. This was all as shown to the Commission on the submitted plans. The motion was then made by Mr. Conze, seconded by Mr. Spain, to approve this chiller unit in this location. That motion was unanimously approved.

Mr. Damanti read the following agenda item:

**Amendment of Business Site Plan Review #24-G, Shaw's Supermarket, 25 Old King's Highway North—Goodwives Shopping Center, DC Zone.**

Discussion of upcoming construction renovation.

Commission members then reviewed the June 30, 2004 letter from Frank Coe to David Keating regarding the Shaw's Supermarket within Goodwives' Shopping Center. It was noted that the renovation to Shaw's would be so substantial that it may be torn down, and in fact the letter notes that it will likely be torn down in its entirety and renovation and expansion proceeding. Mr. Dan Ellingson was present and explained that he was the architect for Shaw's and presented the changes to the front façade that was approved by the Architectural Review Board. The Commission discussed the fact that Shaw's would be taking over several stores to expand the grocery store and relocating the front vestibule to be centered within their total store. The total floor area of the building would not be increased. The entrance doors to Shaw's would be farther from the crowded interior corner of the shopping center. This will help to disperse customer parking. The Commission unanimously approved the plan to remove the entire Shaw's portion of the shopping center building rather than trying to renovate it piece by piece. The replacement Shaw's building will not be any larger than the existing commercial space.

Commission members also reviewed the July 4, 2004 letter from Linda Lacey to Dave Keating regarding a proposed temporary farmers' market within Goodwives' Shopping Center to be held on Thursdays, Fridays and Saturdays during normal business hours during the scheduled six month renovation of Shaw's. This is expected to assist the small shop tenants within the shopping center because they rely so heavily on the supermarket traffic for their business viability. Commission members agreed that review from the Health Department, Police Department and Fire Marshal would be necessary, and that they should coordinate with the contractor renovating Shaw's to insure that no conflicts occur.

It was also noted that they would like to place a sign on or near the Boston Post Road advertising this proposed farmers' market. Mr. Ginsberg noted his hesitancy regarding such a sign, as that is not allowed under the Zoning Regulations and other business owners within the community have been told that they are not allowed to have an off site sign. On a motion by Ms. Forman, seconded by Mr. Conze, the Commission unanimously approved the temporary farmers' market as requested in Linda Lacey's July 4, 2004 letter. The Commission did not allow a sign on the Post Road and suggested that if such a sign is desired in the future, that the property owner first obtain a variance from the Zoning Board of Appeals, and then return to the Commission with such a request.

Mr. Damanti read the following agenda item:

PLANNING AND ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
JULY 6, 2004  
PAGE 5

**Subdivision Application #605, Graham & Bill, LLC, 153 West Avenue**

Request for extension of time to submit required post-approval documents.

Mr. Ginsberg said that he had recently received an e-mail from Bob Maslan requesting a 90 day extension for filing all necessary materials regarding subdivision approval. On a motion by Mr. Spain, seconded by Ms. Forman, the Commission unanimously approved a 90 day extension.

**Special Permit Application #221-B, Sprint Spectrum, Tower Drive, R-2 Zone.**

Request for extension of temporary Certificate of Compliance until July 16, 2004.

Attorney Laura McGeachy of Cacace Tusch & Santagata was present and briefly explained the need to have two additional weeks to finish painting the tower. On a motion by Mr. Conze, seconded by Mr. Kenny, the Commission then granted until July 16, 2004 to complete the painting work on the tower.

**Park and Recreation Commission, Pear Tree Point boat ramp, Pear Tree Point Beach.**

Determination on whether a Mandatory Referral under Section 8-24 of the Connecticut General Statutes is required for this project.

After some discussion, the Commission members agreed that it would be prudent to have a Mandatory Referral report requested by the applicant. This would alleviate any questions from any members of the public regarding whether one was necessary. Mr. Ginsberg will work with the applicant on preparing such a request and have it ready to be discussed by the Commission at its July 27<sup>th</sup> meeting.

Mr. Damanti read the following agenda item:

**Subdivision Application #604, Dana Arnold, 45 Phillips Lane.** Proposing to demolish the existing residence and subdivide the existing 1.23-acre property into three lots and an open space parcel. *DECISION DEADLINE: JULY 30, 2004.*

At 9:40 p.m., the Commission discussed the Arnold property on Phillips Lane. Mr. Kenny made a motion to waive the reading of the draft Resolution aloud as the Commission members have had it over the weekend. That motion was seconded by Ms. Forman and unanimously approved. Mr. Damanti summarized the public hearing by noting that some of the neighbors believed that the houses would be too close to the side yard, some neighbors noted that the houses would be too close to the front yard and some neighbors noted that the houses would be too close to the rear yard. Mr. Spain believed that three lots is too many lots for this property, and believed that the two lot subdivision is much more appropriate based on the constraints of the property. Mr. Kenny agreed. Ms. Forman said that the Commission cannot control the character of the neighborhood. She said that she liked the concept of a conservation subdivision as originally presented.

Commission members noted that there were a number of items within the Resolution relative to the split-rail fence that should help maintain the conservation easement and open space in Darien in the future. One item the Commission specifically wanted included in the final Resolution is that the ravine behind the three lots shall be cleaned up and all debris be removed prior to any Zoning

PLANNING AND ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
JULY 6, 2004  
PAGE 6

Permits being issued for any of the three lots. Mr. Conze then made a motion to approve the draft Resolution as amended this evening. That motion was seconded by Ms. Forman and approved by a vote of 4 to 1 with Mr. Spain opposed. The Adopted Resolution read as follows:

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
July 6, 2004**

Application Number: Subdivision Application #604

Tax Assessor's Map #25 Lot #113

Name and Address of Property Owner: Dana Arnold  
And Applicant: 45 Phillips Lane  
Darien, CT 06820

Name and Address of Applicant's Representative: Roger Pearson  
Six Landmark Square, Suite 400  
Stamford, CT 06901

Activity Being Applied For: Proposing to demolish the existing residence and subdivide the existing 1.23-acre property into three lots and an open space parcel.

Property Location: The subject property is located on the southwest side of Phillips Lane, approximately 1,120 feet west of its intersection with Hoyt Street.

Zone: R-1/3 Zone

Date of Public Hearing: April 27, 2004 continued to May 25, 2004

Time and Place: 8:00 p.m. Room 206 Darien Town Hall

Publication of Hearing Notices

Dates: April 15 & 22, 2004  
May 13 & 20, 2004

Newspaper: Darien News-Review

Date of Action: July 6, 2004

Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action:  
July 15, 2004

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Section 840 of the Darien Zoning Regulations for a Conservation Subdivision and all applicable sections of the Subdivision Regulations for the Commission to approve this project.

PLANNING AND ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
JULY 6, 2004  
PAGE 7

- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted subdivision plans, and the testimony contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The subject parcel is 1.228+/- acres, and is located in the R-1/3 Zone. There is currently one house on the lot, and the applicant proposes to demolish the existing residence and subdivide the property so that there will be three building lots and an open space area. All of the building lots will be served by Town water and sewer.
2. The applicant came before the Planning & Zoning Commission on January 13, 2004 as specifically allowed under Section 843 Of the Darien Zoning Regulations. That was an informal non-binding discussion regarding the proposed conservation subdivision. At that time, the preservation of the existing house was part of the preliminary discussions.
3. A formal application was submitted in March 2004. This application shows a 3-lot conservation subdivision. The conservation subdivision application requests modifications from the R-1/3 zone requirements. They are as follows:
  - a. minimum lot area (12,100 square feet in lieu of the required 14,520 square feet);
  - b. minimum lot width (65 feet in lieu of the required 80 feet); and
  - c. minimum side yard setbacks (minimum 8 feet for each, total of two 20 feet, in lieu of the required minimum 10 feet for each, total of 25 feet).
4. At the public hearing on this matter, neighbors had significant concerns regarding the proposed subdivision. Many of these concerns focused on whether the proposed residences to be constructed will fit the character of the neighborhood, as specifically noted in Section 840 of the Darien Zoning Regulations.
5. The application was referred to the Environmental Protection Commission (EPC) for comment. A subcommittee of the EPC prepared a memorandum dated April 26, 2004. The applicant then responded to that memo at the public hearing, and modified the plans to reflect the EPC subcommittee's concerns.
6. The schematic residences shown on the Plan are for general planning purposes only, and are not meant to show a specific house design. The owners of the properties might construct houses and other structures that are not the same size or in the same location as the conceptual site plan, as long as the structures conform to the applicable Zoning Regulations.
7. The Commission hereby finds that, subject to some restrictions and limitations, a reduction in lot width and minimum lot area are appropriate. These reductions are especially beneficial as they relate to lot #2. This reduction will allow development of that lot to be closer to Philips

PLANNING AND ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
JULY 6, 2004  
PAGE 8

Lane, generally in line with the other proposed residences. It will also allow for preservation of a 42" oak tree at the rear of the site.

8. The Commission finds that a reduction in side yard setbacks is NOT appropriate. Typical R-1/3 side yard setbacks will protect neighboring property owners, and ensure that the health, safety and general welfare of the neighborhood is protected. The applicant has proposed that the western setback on Lot #1 and the eastern setback on Lot #3 be at least twelve feet, thereby allowing for arbor-vitae to be planted along those property lines as shown on Landscape Plan Drawing No. L-1.
9. A 16,188 square foot+/- open space piece of land along the rear of the property is being preserved as permanent undeveloped area.

NOW THEREFORE BE IT RESOLVED that Subdivision Application #604 for a Conservation Subdivision is hereby modified and approved subject to the foregoing and following stipulations, modifications and understandings:

- A. The subdivision shall be in accordance with the following plans submitted to and reviewed by the Commission, as required to be modified herein (reflecting typical R-1/3 side yard setbacks and preservation of trees on Lots 2 and 3):
  - Preliminary Subdivision Map depicting #45 Phillips Lane prepared for Dana Arnold by Redniss & Mead, dated May 18, 2004.
  - Grading and Utility Plan for a Proposed Subdivision #45 Phillips Lane prepared for Dana Arnold by Redniss & Mead, dated 5-20-04, Drawing No. SE-1.
  - Sediment and Erosion Control Plan for a Proposed Subdivision #45 Phillips Lane prepared for Dana Arnold by Redniss & Mead, dated 5-20-04, Drawing No. SE-2a.
  - Site Plan Exhibit for a Proposed Subdivision 45 Phillips Lane prepared for Dana Arnold by Redniss & Mead, revised 4-27-04, Drawing No. EXH.
  - Landscape Plan for a Proposed Subdivision 45 Philips Lane prepared for Dana Arnold by Redniss & Mead, dated 5-20-04, Drawing No. L-1.
- B. Under Section 840 of the Zoning Regulations, as requested, the Commission hereby modifies the minimum lot width and minimum lot area within this Conservation Subdivision. The side yard setback reduction is not acceptable because it would likely have negative impacts upon the adjacent properties. As a condition of modifying the lot area and lot width requirements, the Commission requires that a 15' (fifteen foot) side yard be established and maintained along the northwest and west side yard of Lot 1 and the easterly side yard of Lot 3 (adjacent to the neighbors). This 15' side yard shall apply to all principle and accessory buildings, and shall help to protect and preserve the existing vegetation near the boundary lines as well as facilitate the maturation of the required arborvitae to be planted in those areas.
- C. All utilities serving this property shall be underground. These include, but are not limited to, electrical, telephone, cable TV, and all other wiring.
- D. Since there is no new road construction and no extension of public utility facilities, the Commission waives the requirement for submission of a Performance Bond for road



PLANNING AND ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
JULY 6, 2004  
PAGE 9

construction, however, a Performance Bond in the amount of \$10,000 (ten thousand dollars) shall be required for the plantings in the open space, fence along the regulated area, and arborvitae planting on Lots 1 and 3.

- E. In accordance with Article IV Section C 1-6 of the Darien Subdivision Regulations, the Open Space shall be subject to an Open Space Declaration that shall be filed in the Darien Land Records concurrent with the filing of the Subdivision Map. The open space parcel shall consist of the rear portion of each of the three lots, and shall be owned and maintained by the property owner whose lot it is on. It will be subject to a restrictive covenant to permanently preserve it as open space, and the wording and language of the easement shall be subject to review and action by the Planning & Zoning Director after consultation with Town Counsel.
- F. Prior to preparing the final mylar, lot numbers and street addresses shall be verified with the Assessor. Those should be included on the final mylar for filing.
- G. Drawing No. L-1 (Landscape Plan) shows a number of proposed plantings within the open space area. A portion of this area is within 100 feet of the Noroton River, and is therefore regulated by the Environmental Protection Commission (EPC). Thus, prior to any plantings being installed in that area, prior approval needs to be obtained from the EPC.
- H. Drawings No. SE-2A and EXH show a number of trees to be protected on Lots #2 and #3. These include: a 42" oak and 24" oak on Lot #2, and a 28" oak, a 12" oak, two 24" oaks, and a 10" cherry on Lot #3. All future maps showing these lots, and all Deeds to these lots, shall include references to these trees and the need to preserve them. Because these trees are essential features in preservation of the natural environment, which is specifically part of the approval of this conservation subdivision under Section 841 of the Darien Zoning Regulations, any future request to remove them shall require prior review and approval by the Planning & Zoning Commission.
- I. The open space and 50' regulated area around the inland wetlands shall be delineated by a split rail fence, as shown on Drawing No. EXH. Since part of the purpose of this fence is to ensure that said area is protected during construction, that split rail fence shall be installed prior to a Zoning and Building Permit for any of the proposed residences. It shall be maintained by the owners.
- J. The arborvitae shown on the Landscape Plan (Drawing No. L-1) for Lot #1 and Lot #3 shall be installed prior to a Certificate of Occupancy being granted for these lots. The landscaping proposed for the open space area shall be completed prior to a Certificate of Occupancy being issued for the respective lot.
- K. As part of the development of each parcel, a detailed storm water management/drainage plan shall be submitted with any application for Zoning and Building Permits for construction on each lot. Each plan shall be implemented to assure that development will not have any negative impact upon the street or neighboring property(ies).

PLANNING AND ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
JULY 6, 2004  
PAGE 10

- L. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans noted in Item A, above, and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- M. The “ravine” area in the rear of the property shall be cleaned up by hand (debris and trash removed), prior to obtaining a Zoning Permit for construction of any of the proposed residences.
- N. This subdivision approval does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency. Prior to commencing development activities involving or revised curb cuts into Philips Lane, the applicant shall obtain street opening approvals from the Darien Public Works Department.
- O. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the approval and/or permit as it deems appropriate.

All provisions and details of the plan as required to be modified herein, shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. All completed requirements and materials (the Open Space Declaration and the revised, final mylar with Lot numbers and street addresses and other required changes), shall be completed and submitted to the Planning and Zoning Department within 60 days of this action or this approval shall become null and void.

Mr. Damanti read the following agenda item:

**Change of Zone Application, Amendment of Zoning Regulations, Dominick & Annette Miceli, Wakeman Road.** Proposing to remove the Wakeman Road Affordable Housing Overlay Zone from the Darien Zoning Map, and delete Section 560 from the Darien Zoning Regulations.

Mr. Kenny made a motion to waive the reading of the draft Resolution aloud. That motion was seconded by Ms. Forman and unanimously approved. Mr. Damanti noted that this application was to change the zoning map and regulations and eliminate the affordable housing zoning on these two properties. On a motion by Mr. Kenny, seconded by Ms. Forman, the Commission unanimously approved the change of zone application with an effective date of August 1, 2004. The Adopted Resolution read as follows:

PLANNING AND ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
JULY 6, 2004  
PAGE 11

**PLANNING AND ZONING COMMISSION**  
**ADOPTED RESOLUTION**  
**July 6, 2004**

Application Number: Change of Zone Application

Tax Assessor's Map #32 Lot #28-A and Lot #28-B

Name and Address of Applicants: Dominick & Annette Miceli  
And Property Owners: 188 Old King's Highway North  
Darien, CT 06820

Name and Address of Applicant's Representative: D. Bruce Hill, Esq.  
Gleason, Hill, & Ambrette LLC  
23 Old King's Highway South  
Darien, CT 06820

Activity Being Applied For: Proposing to remove the Wakeman Road Affordable Housing Overlay Zone from the Darien Zoning Map, and delete Section 560 from the Darien Zoning Regulations.

Property Location: Subject property is located on the west side of Wakeman Road approximately 300 feet north of its intersection with Old King's Highway North.

Zone: R-1/2 Zone and Wakeman Road Affordable Housing Overlay Zone

Date of Public Hearing: June 22, 2004

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: June 10 & 17, 2004

Newspaper: Darien News-Review

Date of Action: July 6, 2004

Action: REQUEST GRANTED. MAP AND REGULATION CHANGES TO BECOME  
EFFECTIVE AUGUST 1, 2004 AT TWELVE NOON

Scheduled Date of Publication of Action: July 15, 2004  
Newspaper: Darien News-Review

Following careful review of the submitted application materials and related analyses, the Commission, all of whose members are fully familiar with the site and its surroundings, finds:

1. The subject application is submitted pursuant to Section 1110 of the Darien Zoning Regulations to:

PLANNING AND ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
JULY 6, 2004  
PAGE 12

- remove the Wakeman Road Affordable Housing Overlay Zone (W-AH) from the Darien Zoning Map (now shown as vertical lines on the Zoning Map); and
  - delete Section 560 from the Darien Zoning Regulations (including subsections 561-568, now on pages V-28 through V-31 of the Regulations).
2. The existing Wakeman Road Affordable Housing Overlay Zone applies to two properties within Town. These are shown on Tax Assessor's Map #32 Lot #28-A and Lot #28-B, and are owned by Dominick Miceli and Annette Miceli.
  3. At the public hearing on this matter, there was no comment from neighboring property owners. No protest petition was submitted.
  4. After the proposed removal of the existing Wakeman Road Affordable Housing Overlay Zone designation from these two properties, the existing underlying R-1/2 zoning designation will remain. Thus, the two properties must be developed in accordance with Section 400 of the Darien Zoning Regulations (except as varied by the Darien Zoning Board of Appeals).
  5. As required by Section 8-3a of the Connecticut General Statutes, the Commission hereby finds that the proposed removal of the Wakeman Road Affordable Housing Overlay Zone from the Darien Zoning Map, and the deletion of Section 560 from the Darien Zoning Regulations are fully consistent with the 1995 Town Plan of Development, which is currently in effect.
  6. The Commission hereby grants the applicant's request. The Zoning Map and Regulation changes, as proposed by the applicant, shall become effective on August 1, 2004 at twelve noon.

**Coastal Site Plan Review #85-A, Flood Damage Prevention Application # 72-A, Jerry & Susan Elliott, 97 Five Mile River Road.** Proposing to raze the existing garage and construct additions and alterations to the existing residence, construct a new septic system and perform related site development activities within a regulated area.

Mr. Conze made a motion to waive the reading of the Resolution aloud and the following two Resolutions because the Commission members had received a draft Resolution in their packets and had sufficient time to review it over the weekend. That motion was seconded by Mr. Kenny and unanimously approved. Mr. Conze then made a motion to approve the Resolution as drafted. That motion was seconded by Mr. Spain and unanimously approved. The Resolution read as follows:

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
July 6, 2004**

Application Number: Coastal Site Plan Review #85-A  
Flood Damage Prevention Application #72-A

Tax Assessor's Map #66 Lot #23

PLANNING AND ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
JULY 6, 2004  
PAGE 13

Name and Address of Applicant & Property Owner: Jerry & Susan Elliott  
97 Five Mile River Road  
Darien, CT 06820

Name and Address of Applicant's Representative: Wilder G. Gleason, Esq.  
Gleason Hill & Ambrette, LLC  
23 Old King's Highway South  
Darien, CT 06820

Activity Being Applied For: Proposing to raze the existing garage and construct additions and alterations to the existing residence, construct a new septic system and perform related site development activities within a regulated area.

Property Location: Subject property is located on the east side of Five Mile River Road approximately 500 feet north of its intersection with Davis Lane.

Zone: R-1/2

Date of Public Hearing: June 22, 2004

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices  
Dates: June 10 & 17, 2004

Newspaper: Darien News-Review

Date of Action: July 6, 2004

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:  
July 15, 2004

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 810 and 820 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted development plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

PLANNING AND ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
JULY 6, 2004  
PAGE 14

1. The subject application is to raze the existing garage and construct additions and alterations to the existing residence, construct a new septic system and perform related site development activities within a regulated area.
2. The Zoning Board of Appeals granted a variance for this project in Calendar #37-2004 on May 26, 2004. The Environmental Protection Commission approved this project on June 17, 2004 (EPC #49-2004). Both of those approvals are hereby incorporated by reference.
3. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.
4. The proposed activities, to be implemented with the conditions listed below, will have no adverse impact on flooding, and therefore, this proposal is consistent with the need to minimize flood damage. In accordance with the submitted engineering information, the proposed activity will have no adverse impacts on flooding on adjacent properties.
5. The Commission finds that the proposed development, if properly implemented and protected, is not contrary to the goals, objectives and policies of the Coastal Area Management Program.
6. The proposed activity is consistent with the goals and policies in Section 22a-92 of the Connecticut General Statutes.
7. The potential adverse impacts of the proposed activity on coastal resources are acceptable.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #85-A and Flood Damage Prevention Application #72-A are hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction shall be in accordance with the plans submitted to and reviewed by the Commission:
  - Zoning Location Survey prepared for Jerry V. Elliott Susan S. Elliott, 97 Five Mile River Road, by William W. Seymour & Associates, dated October 4, 2002 and last revised May 20, 2004.
  - Additions & Alterations The Elliott Residence 97 Five Mile River Road by Christopher Carpiniello, Drawings No. A1, A2, A3, A4, dated April 21, 2004.
  - Figure 3 Proposed Conditions by Stearns & Wheler, scale 1"=20', dated 06/04. (within Drainage Report).
- B. As part of the project, slight filling and regrading shall result in all portions of the house and attached garage being on land that is above elevation 12 and will therefore be above the calculated flood elevation for a 100 year storm. Although the final result will be a house that is outside of the flood hazard area, it is still appropriate and necessary to incorporate all flood

PLANNING AND ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
JULY 6, 2004  
PAGE 15

damage prevention measures into the construction because flooding is subject to many variable factors and it is best to minimize or prevent flood damage rather than to avoid proper preparation due to a technicality.

- C. Accompanying the Zoning and Building Permit applications and prior to commencing construction, more detailed drawings of the flood damage prevention anchoring and pressure relief designs shall be submitted along with certification from a licensed architect and/or engineer, that verifies that the final design of the additions and alterations comply with the applicable requirements. Upon completion of the construction and prior to occupancy or issuance of a Certificate of Occupancy, the applicant shall provide written certification from the architect and/or engineer that the construction has been completed in accordance with the approved plans and the flood damage prevention requirements. The applicant shall also provide an updated, as built survey, including, but not limited to showing, the contour line for elevation 12.
- D. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- E. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies.
- F. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke this permit as it deems appropriate.
- G. This permit shall be subject to the provisions of Sections 815 and 829f of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (July 5, 2005). This may be extended as per Sections 815 and 829f.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. All completed requirements and materials shall be submitted to the Planning and Zoning Department within 60 days or this approval shall become null and void.

Mr. Damanti read the following agenda item:

**Special Permit Application #77-G, Darien United Methodist Church, 345 Middlesex Road.**  
Proposing to add three Sunday school classrooms and add to the narthex and perform related site development activities.

- the proposed use and activities must comply with all provisions of Sections 400 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted development plans, and the statements of the applicant whose



PLANNING AND ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
JULY 6, 2004  
PAGE 17

testimony is contained in the record of the public hearing, all of which material is incorporated by reference.

- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The subject application consists of adding three Sunday school classrooms and adding a multi-purpose room adjacent to the narthex. As presented by the applicant's representative during the public hearing, there will be no increase in the overall capacity of the sanctuary/worship service portion of the church as part of this proposal. The additions will solely be used to improve the function of the church, and there will be no change in the existing hours of operation.
2. At the public hearing, it was noted that there is no work or disturbance within 100 feet of Stony Brook or 50 feet of inland wetlands proposed as part of this application. There is also no work proposed within the flood zone. There is no proposed change to the existing parking capacity or to existing traffic patterns.
3. The location and size of the use and the nature and intensity of the proposed operation conforms to the requirements of Section 1005 (a-g) and will not adversely affect public health, safety and welfare.
4. The design, location, and specific details of the proposed use and site development will not adversely affect safety in the streets nor increase traffic congestion in the area, nor will they interfere with the patterns of highway circulation in such a manner as to create or augment unsafe traffic conditions between adjoining developments and the district as a whole.
5. The nature of the proposed changes and uses are such that the project will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.

NOW THEREFORE BE IT RESOLVED that Special Permit #77-G is hereby modified and granted subject to the foregoing and following stipulations and understandings:

- A. Construction shall be in accordance with the plans entitled:
  - Map prepared for United Methodist Church of Darien, by William W. Seymour & Associates dated June 12, 1993, and hand annotated to reflect proposed additions.
  - Methodist Church, by MacMillan Architects, dated 2/26/04 Drawing No. A-101 and A-200.
- B. After reviewing the elevations presented by the applicant as part of the plans, the Commission hereby approves the additions as designed, thereby alleviating the need for review and action by the Architectural Review Board.

PLANNING AND ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
JULY 6, 2004  
PAGE 18

- C. Any expansion of and/or changes to use or uses beyond that specified in this resolution will require prior approval per Section 1000 of the Darien Zoning Regulations.
- D. The Planning and Zoning Department shall be notified prior to commencement of work and after any necessary sediment and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- E. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke this permit as it deems appropriate.
- F. The granting of this Special Permit does not relieve the applicant of responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency.
- G. This permit shall be subject to the provisions of Section 1009 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (July 5, 2005). This may be extended as per Section 1009.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. A Special Permit form shall be filed in the Darien Land Records within 60 days of this action or this approval shall become null and void.

Mr. Damanti read the following agenda item:

**Flood Damage Prevention Application #209, Edward Holcomb & Heather Winters, 4 Waverly Road.** Proposing to construct a covered front porch addition to the existing residence, and perform related site development activities within a regulated area.

Mr. Conze made a motion to approve the Resolution as written. The motion was seconded by Mr. Kenny and unanimously approved. The resolution is as follows:

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
July 6, 2004**

Application Number: Flood Damage Prevention Application #209

Tax Assessor's Map #55 Lots #14 & #15

PLANNING AND ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
JULY 6, 2004  
PAGE 19

Name and Address of Property Owners: Edward Holcomb & Heather Winters  
4 Waverly Road  
Darien, CT 06820

Activity Being Applied For: Proposing to construct a covered front porch addition to the existing residence, and perform related site development activities within a regulated area.

Property Location: The subject property is located on the northwest corner formed by the intersection of Waverly Road and Baywater Drive.

Zone: R-NBD

Date of Public Hearing: June 22, 2004

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: June 10 & 17, 2004

Newspaper: Darien News-Review

Date of Action: July 6, 2004

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:  
July 15, 2004

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 410-417 inclusive and 820 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. This application is a Flood Damage Prevention application under Section 820 of the Darien Zoning Regulations to construct a covered front porch addition to the existing residence, and perform related site development activities within a regulated area.
2. In accordance with the engineering information submitted dated May 11, 2004 and June 11, 2004, the proposed activity will have no adverse impacts on flooding on adjacent properties and

PLANNING AND ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
JULY 6, 2004  
PAGE 20

will withstand the flood depths, pressures, velocities, impact and uplift forces associated with the base flood.

3. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.

NOW THEREFORE BE IT RESOLVED that Flood Damage Prevention Application #209 is hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction of the front porch shall be in accordance with the plans entitled:
  - Zoning Location Survey prepared for Heather Winters #4 Waverly Road, by William W. Seymour & Associates, dated October 21, 2003 and last revised January 19, 2004 (with hand annotations crossing out activities not proposed as part of this application, and highlighting proposed covered porch).
  - Winters-Holcomb, 4 Waverly Road, by Palombo Architectural Design, LLC, Sheet 10 last revised 5.11.04, and Sheet 1 last revised 4.22.04.
- B. Accompanying the Zoning and Building Permit applications and prior to commencing construction of the addition, a certification from a licensed architect and/or engineer shall be submitted that verifies that the final design complies with the applicable requirements.
- C. No filling or regrading of the site has been requested or shown on the submitted plans. No filling or regrading is authorized.
- D. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- E. Once the porch is built, the applicant shall submit verification from the project engineer that all aspects of the building construction have been completed in compliance with the approved plans and the flood damage prevention regulations.
- F. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies.
- G. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.

PLANNING AND ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
JULY 6, 2004  
PAGE 21

- H. This permit shall be subject to the provisions of Section 829 f of the Darien Zoning Regulations, including but not limited to, submission of certification that the work has been completed in conformance with the permit, and implementation of the approved plan within one year of this action (July 5, 2005). This may be extended as per Section 829f.

All provisions and details of the plan, shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman.

Mr. Damanti read the following agenda item:

**Coastal Site Plan Review #187-A, Flood Damage Prevention Application #205, Land Filling & Regrading Application #107-A, Richard & Robin Woods, 137 Five Mile River Road.**

Proposing to construct a stone and masonry retaining wall and place approximately 95 cubic yards of fill behind it and perform related site development activities within regulated areas.

Mr. Damanti reminded the Commission of the issues in the Woods' application. This included the fact that there was a letter from the DEP that explained that the proposed retaining wall would be inconsistent with the DEP policies. It was noted that although the Commission usually supports the DEP's recommendations, in this case the Commission believed that erosion was occurring which could substantially impact the property. The Commission then instructed Mr. Keating and Mr. Ginsberg to draft a Resolution for review and discussion at next week's meeting.

**Approval of Minutes**

*June 1, 2004                      Public Hearing/General Meeting*

On a motion by Mr. Kenny, seconded by Mr. Conze, the Commission unanimously approved the June 1, 2004 meeting minutes as written.

*June 8, 2004                      General Meeting*

On a motion by Mr. Spain, seconded by Ms. Forman, the Commission voted 4-0-1 to approve the minutes as amended. The amendments included the spelling of three names within the document. Mr. Conze abstained on this set of minutes as he was not at that meeting.

**Discussion of possible revision in application fees.**

Mr. Ginsberg updated the Commission on the fact that under a recent state law, the State of Connecticut is taking a larger portion of the application fees. That has recently risen to \$28.00 of the first \$30.00 of each application made. There is thus a need to specifically exclude the state fee as part of the overall application fee and slightly increase the application fee to cover the costs associated with processing an application. Commission members agreed that it would be appropriate for Mr. Ginsberg to draft a proposed fee increase for land use applications and present it to the Commission at a public hearing in September.

There being no other business the meeting was then adjourned at 10:20 p.m.

PLANNING AND ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
JULY 6, 2004  
PAGE 22

Respectfully submitted,

Jeremy B. Ginsberg  
Planning Director

David J. Keating  
Assistant Director of Planning

*07062004.min*